

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
STATESBORO DIVISION

UNITED STATES OF AMERICA,

v.

JOSEPH DEAN GARCIA,

Defendant.

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CASE NUMBER CR-6:15-00005

SENTENCING HEARING

BEFORE THE HONORABLE LISA GODBEY WOOD
United States Courthouse
52 North Main Street
Statesboro, Georgia
December 16, 2015

COURT REPORTER: Victoria L. Root, CCR
United States Court Reporter
Post Office Box 10552
Savannah, Georgia 31412
(912) 650-4066

*(Proceedings taken down by mechanical stenography and
transcribed using computer-aided transcription.)*

A P P E A R A N C E S

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E X H I B I T S

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P R O C E E D I N G S

(Call to order at 11:56 a.m.)

THE COURT: All right, Ms. Mixon. The defendant is present, if you'll call the next case.

COURT CLERK: *United States of America v. Joseph Dean Garcia*. Lamont Belk for the Government. Page Pate for the Defense.

MR. BELK: Your Honor, the Government is ready.

MR. PATE: We are ready as well. Thank you.

THE COURT: All right. Mr. Pate, approach with your client, Mr. Joseph Dean Garcia.

(Counsel and Defendant approached the lectern.)

THE COURT: All right. Mr. Garcia, you appeared before me on September 14th, 2015, accompanied by your attorney, Mr. Pate, for your Rule 11 proceeding. And pursuant to a plea agreement, you pled guilty and were adjudged guilty of Count 1 of the information charging you with conspiracy to commit wire fraud in violation of 18 U.S.C. Section 371.

Upon completion of that Rule 11 proceeding and my acceptance of your guilty plea, I directed the probation office to prepare a presentence report and to disclose that report to the Defense and the Government.

Now, Mr. Garcia, have you had the opportunity to read and review that report and its brief addendum and talk about it with Mr. Pate?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: And are there any objections as to
3 either the factual accuracy of the report or to the probation
4 officer's application of the advisory sentencing guidelines?

5 MR. PATE: Not at this time, Your Honor. We did have
6 one objection, but it was resolved.

7 THE COURT: All right. And, Mr. Belk, on behalf of
8 the Government?

9 MR. BELK: No objections from the Government,
10 Your Honor.

11 THE COURT: All right. There being no objections to
12 the factual statements contained in that presentence report,
13 I'll adopt those as my statements of fact.

14 There being no objection to the probation officer's
15 conclusions about the advisory guidelines, I'll adopt those
16 conclusions and therefore determine, in Mr. Garcia's case, the
17 applicable advisory guidelines are a total offense level of 19,
18 criminal history category of 1. The advisory range is 30 to
19 37 months of imprisonment, 1 to 3 years of supervised release,
20 6,000 to \$60,000 fine, restitution in the amount of \$635,000, a
21 \$100 special assessment. As to the statutory penalty involved
22 for Count 1, there's no minimum, and there's a maximum of
23 5 years of imprisonment.

24 Mr. Belk, before I turn to the Defense and then back
25 to the Government, are there any victims who are present and

1 wish to make a statement regarding the impact, financial or
2 otherwise, that this offense has had on them?

3 MR. BELK: Yes, Your Honor. We do have Ms. Rebecca
4 Norman present. She's in the courtroom. I understand,
5 however, she does not wish to address the Court, but we do
6 acknowledge her presence.

7 THE COURT: All right. Thank you.

8 And I will say on the record that I have received
9 certain materials for consideration prior to coming here. And
10 I believe I did receive one letter from a victim, and I have
11 received letters from the defendant's family as well. And I've
12 also received access to a video that was made by two of the
13 defendant's children.

14 And I did have the opportunity to read and -- those
15 letters that I received as well as watching that video that
16 was made available by Mr. Pate for me to review. Specifically,
17 that was the video that was set forth in a park in New Mexico.

18 I also received a letter from Arlene Paglia; from
19 Chance Paglia, who I also saw; and Janine Paglia; as well as
20 Mason Paglia, who also . . .

21 Well, let me turn to you, Mr. Pate. Is there any
22 evidence you'd like to bring forth or witnesses you'd like to
23 call or argument you'd like to make in mitigation?

24 MR. PATE: Yes, Your Honor. We certainly do have
25 some argument that I'd like for the Court to consider in terms

1 of a reasonable sentence. We have no additional evidence to
2 present. I wanted to make sure the Court has an opportunity --
3 or had an opportunity to review the character letters and the
4 video that we provided to the Court. But other than that, it
5 would just be my argument.

6 THE COURT: All right. If you'll proceed.

7 MR. PATE: Thank you, Your Honor.

8 As I noted earlier, we did have an initial objection
9 to the presentence investigation report, but that has been
10 resolved, and so we agree that the advisory guideline range is
11 between 30 and 37 months.

12 We note that the probation office has recommended the
13 high end of that guideline range, I think primarily, from what
14 I can tell, based on the argument that the criminal history
15 category here may be somewhat understated because Mr. Garcia
16 does have some prior convictions. They are very old. Most
17 occurred when he was a very young man. And so, by the rules
18 that we have in our guidelines, they don't count towards the
19 sentence. And that's, you know, why we have rules in the
20 guidelines.

21 But I think it's important to note for the Court
22 that, you know, I've had certain, I guess, personal impressions
23 or professional impressions about Mr. Garcia in -- and these
24 kinds of cases in general. You know, having done this for over
25 20 years now, I've had my share of fraud cases.

1 And when I read the probation officer's
2 recommendation and some of the facts stated in the PSR, I think
3 there's a general impression that perhaps the Government,
4 perhaps other individuals have about the type of a defendant --
5 or the general type of a defendant in a fraud case. We call
6 them fraudsters. And it seems that, at least in my experience,
7 there's a particular personality trait or a demeanor to some of
8 these individuals that's consistent in a lot of these different
9 cases.

10 In my experience, when I have a defendant in a case
11 like this, it is customary for them to minimize, deflect from
12 the very beginning of the case, even all of the way through
13 sentencing. While they may, at some point, recognize and
14 accept the need to enter a guilty plea or accept
15 responsibility, they do it very reluctantly, and it becomes
16 almost painful, from the defense standpoint, to help them get
17 through that process.

18 That's not true with Mr. Garcia. From my very first
19 meeting with him, he immediately accepted responsibility for
20 what he did in this case. And I sat down with him and --
21 frankly, reviewing the discovery, we went through all of the
22 telephone conversations that Omega, as a company, had with the
23 victims in the case. We went through the e-mails. We went
24 through how the scheme was developed.

25 Mr. Garcia's name was not on any of that. He wasn't

1 the guy on the phone. He wasn't the guy in the e-mails. He
2 wasn't the person that came up with the idea of the scheme. He
3 didn't create these personalities. At no time did he ever
4 deny, though, that he was a beneficiary of it. He, in some
5 ways, was an instigator of it.

6 But this was a defensible case because, other than
7 the fact he received some money, there was really no direct
8 evidence tying him to the fraud scheme and the alleged victims
9 in the case. They couldn't come forward and say, "This is the
10 guy I talked to who told me X, Y, and Z," or, "This is the
11 person that I trusted my money to." He simply had no contact
12 with those individuals.

13 And I explained that to him, and I said, "You know,
14 in a case like this, it all depends on whether the Government
15 can follow the money trail but then also show that you had
16 knowledge of the fraudulent conduct. The fact that you
17 benefited is not enough. You have to be benefit and be aware
18 of the ongoing criminal conduct."

19 THE COURT: And, of course, sometimes, others
20 involved in the criminal conduct would weigh in to tie him
21 to --

22 MR. PATE: Of course.

23 THE COURT: -- other events.

24 MR. PATE: Of course. And perhaps that would have
25 happened at the end of the day. But initially, that was not a

1 concern of ours.

2 But he had no part of that. He wanted no part of
3 that. He said, "I was involved. I got this money. These
4 people are out of this money. I want to plead guilty." And
5 that was one of the first conversations I had with him.

6 And so we went forward and negotiated with the
7 Government a plea agreement that we thought was fair
8 considering the circumstances and the facts of the case.
9 To the extent it was possible for Mr. Garcia to help with
10 restitution, he did so.

11 He has been willing to surrender his interest in a
12 joint account that he and his wife -- or soon-to-be ex-wife
13 control. He's always been willing to do that. Logistically,
14 it's somewhat difficult. He's in custody. He doesn't have
15 access to that account.

16 His ex-wife surrendered some money that, frankly, I
17 don't know was actually tied to the offense conduct in this
18 case.

19 But Mr. Garcia said, you know, "Government wants it.
20 Give it to the Government."

21 They also took some money from him at the time that
22 he voluntarily surrendered. And I go back to that. He did,
23 in this case -- once he became aware of the indictment, he
24 flew to the Southern District of Georgia at my request and his
25 agreement and --

1 THE COURT: About the money, remind me: The
2 legitimate source of money that he had was?

3 MR. PATE: He was working after the Omega investment
4 scheme ended. And I think the actual scheme itself, the
5 offense --

6 THE COURT: And where was that job?

7 (Defense Counsel and Defendant conferred.)

8 MR. PATE: His employment right before he was
9 arrested, that was in Washington, D.C.

10 THE COURT: And what -- who was that for?

11 MR. PATE: He had worked for a couple of different
12 law firms in the D.C. area. And I reached out to one of those
13 individuals -- I believe Probation did as well -- and they did
14 verify that he did do some work for that firm. I don't think
15 that's an issue in the case.

16 THE COURT: So his legitimate source of these funds
17 would have been that work that he did with one of those law
18 firms after Omega right before he was arrested?

19 MR. PATE: Your Honor, my point was that -- the
20 money from his ex-wife, I don't know that that even came from
21 Mr. Garcia. I'm not suggesting that he was trying to hold on
22 to any money himself. I'm simply saying at no point did he
23 ever try to obstruct the Government from taking assets away
24 from either him --

25 THE COURT: That weren't his. Oh, I see what you're

1 saying. At least he didn't stop other people from trying to
2 pay the victims. Okay.

3 MR. PATE: From surrendering money to the Government.

4 THE COURT: Okay. All right.

5 MR. PATE: I mean, I don't know the source of those
6 funds. I haven't spoken with Ms. Paglia about it.

7 THE COURT: Right. But I guess he didn't stand in
8 the way with other people trying to --

9 MR. PATE: He did not --

10 THE COURT: -- pay?

11 MR. PATE: -- no.

12 THE COURT: Okay. All right.

13 MR. PATE: And I think, if he had the money available
14 to him, he would have provided it.

15 THE COURT: Okay.

16 MR. PATE: I do know that early on in the case when
17 there was a suggestion that the money that had been developed
18 post the offense conduct was somehow obtained fraudulently,
19 that money was also voluntarily returned --

20 THE COURT: All right.

21 MR. PATE: -- without any Government involvement.

22 So he's been in custody since the time he voluntarily
23 surrendered. I think we're now about 10 months into that
24 custody. Obviously, he's not been at a federal prison camp
25 during that period of time. He's been in local jails. He's

1 also been at several different BOP facilities for purposes of
2 mental evaluation and tests. He's gone through that process.

3 Having watched him over the past 10 months or so and
4 met with him the number of times that I have, it's clear that
5 either the case or his custody or the circumstances of all of
6 that combined has had a very -- I think personally, just from
7 my professional observations of him, a significant impact on
8 his mental health and emotional health.

9 You know, I've seen a trajectory straight downward,
10 especially over the last several months. I know he's indicated
11 to me -- and perhaps he'll indicate to the Court -- that he is
12 interested in participating, again, to the extent he can, with
13 any mental health treatment program within the BOP. I think
14 the Court has the ability to recommend that, and perhaps the
15 BOP would do that on its own. I think he's willing and anxious
16 to do that as well.

17 Looking at the range between 30 and 37 months, I do
18 note that the loss amount in the case is certainly closer to
19 the lower end of the segment or the loss category that puts us
20 into 30 to 37 months. I think that starts at around half a
21 million dollars.

22 We're at 650-something in this case, and it goes up
23 to a million and a half, so he's in the same range as if the
24 fraud conduct had taken over a million dollars when, in fact,
25 the amount here is towards the low end of that.

1 In many cases, I will stand before the Court, and
2 I'll suggest that a reasonable sentence would be a sentence
3 that varies from the guideline range -- the advisory guideline
4 range. I'm not doing that in this case. I think, given the
5 facts and given the history, even though it doesn't count on
6 the guidelines, it's certainly something that the Court can
7 take into account.

8 But I do believe that -- based on the facts of the
9 offense conduct, what he's pled to, what is in the PSR, and the
10 numbers, I do think the low end of the advisory guideline range
11 is appropriate, and so that is what we're requesting in this
12 case.

13 THE COURT: All right. Mr. Belk, on behalf of the
14 Government.

15 MR. BELK: Thank you, Your Honor.

16 THE COURT: And -- let's see. Mr. Pate and
17 Mr. Garcia, if you'll have a seat. Thank you.

18 MR. BELK: Your Honor, let me first state that we did
19 receive additional correspondence from some of the victims in
20 this case. I do have copies for the benefit of Your Honor, if
21 I may approach.

22 THE COURT: And I would like to take that into
23 consideration. So if you'll provide those to me and a copy to
24 the Defense as well, and those will become part of this record.
25 And, Mr. Belk, hold on just a second so I can read those.

1 (A pause in the proceedings from 12:12 p.m. to 12:15 p.m.)

2 THE COURT: All right. I have had the opportunity to
3 study those letters.

4 MR. BELK: And thank you, Your Honor. And the
5 Court would note that one of the missives included is from
6 Ms. Norman, who is present today.

7 Your Honor, I would just state from the outset that,
8 in this case, there is certainly no reason to downwardly depart
9 or sentence the defendant at the lower end of the guideline
10 range. And I believe there's compelling reasons for that.

11 As the PSI notes, this case involves the defendant's
12 lifelong pattern of fraud and deceit. In this case, his first
13 scheme involved Omega Consulting -- Omega Capital
14 Consultants -- excuse me -- and the scheme, as far as we can
15 tell, started as early as August of 2009. That was within a
16 year of his completing his felon -- last felony sentence, which
17 ended in January of 2009.

18 He has a lengthy and significant criminal history,
19 one that shows his repeated disregard for the law, beginning at
20 the age of 17. He is now 49 years old. He has five prior
21 felony convictions, all of which involve the same type or form
22 of criminal activity: theft, fraud, embezzlement, and the like.

23 As a result, he has experienced nearly the entire
24 spectrum of sentences available to the courts. He's been
25 sentenced by state courts. He's been sentenced by a federal

1 court. He's been to prison. He's been placed on probation.
2 He has been revoked. He has been to state prison, and he's
3 been to federal prison. Nothing has deterred or altered his
4 conduct in any way, shape, or form. So his criminal history
5 alone is very compelling.

6 I would just point out in even more detail, if you'll
7 look at his history, Your Honor, just a couple points. His
8 first felony offense involving fraud occurred in 1985. And
9 apparently, while out on bond on that case, he then incurs
10 another felony offense involving fraud, larceny, and forgery;
11 so he's placed on probation for that second offense. And
12 then while on probation, he commits a federal felony offense
13 involving passport fraud.

14 And then while still on probation for the earlier
15 offenses, he commits a -- an embezzlement along with some
16 other charges in 1990. And while he was still out on federal
17 prison -- and then we look at the last offense, which occurred
18 in 2002. And he was sentenced in 2005. He was placed on
19 4 years' probation.

20 His last offense occurred when he was at the age of
21 35. Again, his first offense was at the age of 17. And he was
22 well into his 40s when this activity occurred. So we show a
23 consistent pattern of criminal activity with this defendant.

24 But that's not all. By his own admission, if you
25 look at Paragraph 60 of the PSI, which is not in dispute, he

1 admitted to a federal court that he is, in fact, a pathological
2 liar. And that's consistent with the criminal activity that we
3 have before the Court today.

4 He also claims to have been self-employed during his
5 entire adult life but yet simply cannot provide dates or
6 verification of income. He can't verify any legitimate
7 income, essentially, during the past 32 years if you look at
8 Paragraphs 65 and 68 of the PSI.

9 There are representations that he worked for various
10 firms and the like -- he was a welder and so on and so forth --
11 but nothing to corroborate that information. So we can only
12 assume, I think safely assume, that he has been involved in
13 criminal activity for the better part of his adult life.

14 At the time of his arrest, notwithstanding his
15 lack of verifiable, legitimate income, he and his wife and --
16 ex-wife and two sons were living in a fairly upscale
17 neighborhood in the nation's capital, renting a home at the
18 price of \$12,500 per month consisting of over 7,200 square
19 feet, again, with no verifiable, legitimate income. And,
20 again, that would reference to Paragraph 72 of the PSI.

21 I would say, Your Honor, that this case presents
22 essentially a snapshot of his criminal activity. I believe
23 that is a very safe assumption based on the evidence before the
24 Court.

25 I would also point out for the Court that the

1 defendant did receive a significant benefit in this case. By
2 virtue of the plea agreement, he was allowed to plead to the
3 conspiracy -- the 18 U.S.C. Section 371 conspiracy, which did
4 limit his exposure to 60 months, which is the maximum penalty.

5 And I will say -- essentially, I guess one of the
6 best things we could say about this defendant is that when he
7 is caught, when he is apprehended, he does admit his conduct,
8 as Mr. Pate admitted.

9 I would take a different point of view. I would
10 suggest to the Court that the defendant probably sees this as
11 essentially the cost of doing business, if you will. His
12 criminal history suggests that. He's also spent a great deal
13 of time outside of prison obviously amassing, through various
14 means, illicit, I would suggest, wealth and so forth.

15 But having said all that, Your Honor, the -- we do
16 believe that the 30- to 37-month range is appropriate as
17 calculated. It does reflect the seriousness of the offense as
18 well as his prior history.

19 But having said that, I believe if Your Honor
20 fashions a sentence, at the very least, at the high end of the
21 range, it would promote respect for the law and act as a
22 deterrence for others.

23 And having said that, Your Honor, I'll leave it to
24 Your Honor's discretion.

25 THE COURT: All right. Thank you, Mr. Belk.

1 All right. Mr. Pate and Mr. Garcia, reproach.

2 (Counsel and Defendant approached the lectern.)

3 THE COURT: Mr. Garcia, it is your opportunity to
4 address me last.

5 Is there anything you would like to say with regard
6 to sentencing before I pronounce sentence?

7 THE DEFENDANT: As the Courts have stated,
8 Your Honor, I don't think I'm going to say anything that
9 anyone's going to believe anyway. And I do have a problem with
10 lying. I always have. That's no excuse. I'm not trying to
11 excuse my behavior.

12 I've been in and out of prisons my whole life. I've
13 been in trouble in some capacity. I get in trouble; I stay out
14 of trouble for as long as I possibly can; and then I end up in
15 trouble.

16 I've done a lot of soul searching. I believe that
17 within each increment of trouble that I get into, I seem to
18 widen the space a little bit. I certainly hope I can widen the
19 gap on this one much, much larger.

20 And I intend to -- I've never sought out counseling
21 in terms of psychological counseling before. I never thought
22 I needed it. I thought I was smarter. And I need it. I want
23 it. I need it. I intend to seek it out of my own fruition.

24 And for the victims in the courtroom, I apologize.
25 I stood by and watched while actions were taken that hurt you.

1 And for this, I'm sorry.

2 That's all, Your Honor.

3 THE COURT: All right. There is, as I understand it,
4 a joint motion to approve a consent order of forfeiture; is
5 that correct?

6 MR. BELK: That is correct, Your Honor.

7 MR. PATE: Yes, Your Honor.

8 THE COURT: The proposed order that's been presented
9 to me, as I understand it, has been vetted by both Counsel and
10 the defendant. There is a blank on my copy on Page 3 where it
11 addresses the amount.

12 That is numbered Paragraph 1 on Page 3?

13 MR. BELK: Yes, ma'am.

14 THE COURT: What are -- what is the consent amount
15 that is to be supplied?

16 MR. PATE: It was our expectation, Your Honor, that
17 it would be the amount of restitution as set forth in the PSR
18 without objection, so I believe 635,000.

19 THE COURT: All right. I am inserting that amount
20 and signing the original consent forfeiture.

21 And Counsel and Mr. Garcia, there are blanks for you
22 to sign this as well.

23 One other housekeeping matter. In my copy of the
24 PSI, in the report, there were photographs.

25 Are these a part of the sentencing hearing? There

1 appears to be a wedding photograph.

2 Mr. Pate?

3 MR. PATE: Your Honor, we did not submit those. I
4 believe they came from Probation.

5 THE COURT: Was that --

6 PROBATION OFFICER SKARUPA: That's correct,
7 Your Honor, just for Your Honor's view.

8 THE COURT: All right. And is there any dispute
9 that that is, in fact, a -- it looks like a wedding picture of
10 Ms. Ransom and the defendant.

11 Is that --

12 MR. PATE: It is.

13 THE COURT: -- correct? All right.

14 But this does not go in the presentence report?

15 PROBATION OFFICER SKARUPA: Your Honor, it was
16 essentially just like an attachment to the presentence
17 report --

18 THE COURT: All right.

19 PROBATION OFFICER SKARUPA: -- so that you could view
20 them.

21 THE COURT: Any objection to that remaining an
22 attachment on the part of the Government, Mr. Belk?

23 MR. BELK: No, Your Honor.

24 THE COURT: On the part of the Defense, Mr. Pate?

25 MR. PATE: I've not seen that done before,

1 Your Honor, so I'm not sure what the BOP would do with that
2 information. I suppose we would object because I believe all
3 the facts that they need and the facts that the Court needs for
4 purposes of sentencing are in the PSR. We'd have no objection
5 to the Court considering it as an exhibit to the sentencing
6 proceeding.

7 THE COURT: We will mark that as Court's Exhibit 1.
8 It appears to be and is acknowledged to be a picture of
9 Ms. Ransom and the defendant at their wedding.

10 And let me also state for the record that the one
11 victim letter that I was able to read ahead of time was from
12 the Hamblins, Miss Bonnie and Mr. Lee. And then, of course,
13 I read the other victim's letter as well. And those will be
14 Court's 2 to this proceeding.

15 All right. Well, I have, of course, listened to
16 all that was said by both attorneys today and what was said
17 by the defendant himself. I have studied the presentence
18 investigation report. I viewed the video that was submitted
19 ahead of time by two of his sons. I have read each of the
20 letters submitted by the victims.

21 And I thought a long time about all of the factors
22 that are set forth in our federal sentencing statute, 18 U.S.C.
23 Section 3553, and how they apply uniquely to Mr. Garcia. This
24 is not a case where it is conceivable to depart below the
25 advisory guideline range. It is a case where it is entirely

1 conceivable to depart upward given the magnitude of the fraud
2 involved, the number of the victims that were swindled, the
3 devastating impact that it's had on their lives.

4 And all the while, they were defrauded so this
5 defendant could live a very fancy lifestyle that he in no way
6 earned: a veritable mansion on Embassy Row in Washington, D.C.;
7 fancy cars and jewelry and clothes stolen sometimes from an
8 82-year-old victim who had plans to use that to get something
9 for their grandchildren.

10 And you stole it, and you frittered it away in the
11 most selfish way.

12 Because of the magnitude of the offense, in looking
13 at your criminal history, you have earned the very top end of
14 the advisory guidelines. And there are only two reasons why
15 I'm not departing upward.

16 Number one is you followed the advice of your
17 counsel to turn yourself in. Had you not done that, I would
18 have sentenced you to the statutory maximum. And the other
19 reason -- and that goes hand in hand with that one -- is, at
20 least here today, you were admitting that for most of your
21 adult life, you've been a fraud and that it has hurt people who
22 didn't deserve to be hurt.

23 And what you said at the beginning is a ray of truth,
24 and that is that people simply won't believe you anymore. In
25 this one case, you've defrauded more than a dozen individuals

1 in multiple states of at least \$635,000. You used alias names
2 and identities, advertised fictitious investment plans,
3 provided false representations, all so you could live on
4 Embassy Row, take lavish vacations, buy jewelry.

5 You have five prior fraud convictions. And as was
6 acknowledged here, only the most recent counted toward your
7 criminal history. Truth be told, it's hard to find evidence
8 of any legitimate employment you've ever done, and you've long
9 been a grown man.

10 You lied about precious things like military service
11 that you didn't do that other people do. You lied about
12 special jobs like Navy Seals and CIA that you didn't do that
13 other people did, and you pretended to do that.

14 There is one line that I had focused on as well, and
15 Mr. Belk mentioned it. In connection with the 1987 District of
16 Columbia case, you describe yourself as a pathological liar who
17 suffers from low self-esteem. I don't know what will happen
18 to you in the future, but, if you can sustain those moments of
19 clarity, you have the possibility of becoming something else.

20 Based on, really, the cruel nature of the offense
21 and your abysmal history, you are hereby committed to the
22 custody of the Bureau of Prisons to be imprisoned for a term
23 of 37 months. I strongly recommend to the Bureau of Prisons
24 that you be evaluated for participation in a program of
25 mental health and a program of substance abuse treatment and

1 counseling during your term of incarceration.

2 Restitution is due in the amount of \$635,000 to the
3 victims that are identified in the presentence investigative
4 report, and that restitution shall be paid jointly and
5 severally with Karen Kay Ransom.

6 And has the partial payment -- the \$88,000, has that
7 already been --

8 MR. BELK: That has not occurred as of yet,
9 Your Honor. But in speaking with Mr. Pate, I believe the
10 defendant is relinquishing --

11 THE COURT: I'm sorry. What?

12 MR. BELK: I understand the defendant is
13 relinquishing any interest in that towards --

14 THE COURT: All right. Is that correct?

15 MR. PATE: We are. But the codefendant, I think, has
16 actual custody of the account.

17 THE COURT: I understand.

18 His present economic circumstances don't permit him
19 to pay that whole amount of restitution immediately, and so,
20 pursuant to federal law, nominal payments of either quarterly
21 installments of a minimum of \$25 if working non-UNICOR or a
22 minimum of 50 percent of all monthly earnings if working UNICOR
23 shall be made.

24 And upon release from imprisonment and while on
25 supervised release, nominal payments of a minimum of \$200 per

1 month shall be made, and those will be made to the clerk of the
2 U.S. District Court for disbursement to the victims.

3 I am not going to order interest or a fine. I do
4 want his efforts to be concentrated on repaying the victims, to
5 the largest extent possible. There is a \$100 mandatory special
6 assessment which is due immediately.

7 And pursuant to the plea agreement, the consent
8 forfeiture order has been signed. The defendant shall forfeit
9 a money judgment reflecting the amount of \$635,000, said sum
10 constituting or derived from the defendant's instant conduct.

11 Mr. Garcia, upon release from imprisonment, you'll be
12 on supervised release for a period of 3 years. Really, it's
13 that period that you can either start to show or not whether
14 you can become a different person. You may have seen the
15 probation officer does not think you can. I don't necessarily
16 share that opinion. But it's during that 3 years that we'll
17 see.

18 I'm going to have the probation officer work
19 particularly closely with you because, during the time that you
20 are under federal supervision, you will not defraud another
21 person. And if you make attempts to do so, you'll be brought
22 before me.

23 Understand?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: While on supervised release, you'll

1 comply with the standard conditions of supervision adopted by
2 the Court and the mandatory ones that are required by federal
3 law. Those include a prohibition against possession of any
4 firearm or dangerous weapon. You'll cooperate in the
5 collection of a DNA sample. You will participate in a program
6 of testing for drug and alcohol abuse. You'll also participate
7 in a program of mental health treatment.

8 You'll be required to provide the probation officer
9 with access to any requested financial information, and you
10 shall not incur new credit charges or open additional lines of
11 credit without the approval of the probation officer.

12 I'm going to order that you obtain your GED while
13 you're incarcerated. And if you're unable to do so, then
14 you'll obtain that during your supervised release period.

15 You'll be subject to certain searches as may be
16 ordered.

17 You must inform any employer or prospective employer
18 of your current conviction and supervision status. You shall
19 not enter into any form of self-employment absent the prior
20 written approval of the probation officer. You shall not be
21 employed in any fiduciary capacity or any position allowing
22 access to credit or personal information of others unless the
23 probation officer approves that in advance in writing.

24 You shall maintain not more than one financial
25 institution account nor be a signer on a financial institution

1 account without the prior approval of the U.S. probation
2 officer.

3 And the probation officer is directed to provide
4 Mr. Garcia with a written set of instructions that governs all
5 of the terms of supervised release.

6 I did accept a plea agreement, and I'm satisfied it
7 adequately reflects the seriousness of the underlying actual
8 offense behavior. I will reiterate that it is the advice of
9 your counsel and your choice to accept that that saved you from
10 the statutory maximum in this case.

11 In accordance with the plea agreement, Indictment
12 6:14-27 pending in this district is dismissed as it relates to
13 this defendant.

14 Pursuant to the plea agreement, with limited
15 exceptions, you did waive rights conferred by 18 U.S.C. Section
16 3742 to appeal the sentence and waived the right to attack the
17 sentence in any postconviction proceeding.

18 Mr. Pate, you've been furnished with your notice of
19 your postconviction obligation to consult your client. And if
20 you'll sign that and have Mr. Garcia sign that and file it on
21 the record in this case.

22 MR. PATE: Yes, Your Honor.

23 THE COURT: Do you have a request as to where he be
24 placed?

25 MR. PATE: Your Honor, there's been some discussion

1 about that. You know, at the time of his arrest, his residence
2 was in Washington, D.C. Clearly, he really had no ties to D.C.
3 and certainly does not now. I think it's evident from what we
4 submitted to the Court that his children and his ex-wife have
5 moved back to the New Mexico area, Albuquerque, New Mexico,
6 which is where he's from. To the extent the Court's willing to
7 do that, I would simply request a facility somewhere on the
8 West Coast that is consistent with his security classification,
9 but we don't have a particular institution we can request.

10 THE COURT: All right. And to the extent space and
11 security can accommodate that request, I do recommend that he
12 be placed in a federal institution on the West Coast.

13 Well, sentence has now been pronounced. Other than
14 any objection which could have heretofore been made, do you now
15 have any objection as to my findings of fact, my conclusions of
16 law, or to the manner in which sentence was pronounced,
17 Mr. Pate?

18 MR. PATE: No, Your Honor.

19 MR. BELK: No, Your Honor.

20 THE COURT: All right. Mr. Garcia, I remand you back
21 to the custody of the U.S. Marshal, and counsel may be excused.

22 MR. PATE: Thank you, Your Honor.

23 MR. BELK: Thank you, Your Honor.

24 (Proceedings concluded at 12:41 p.m.)
25

C E R T I F I C A T E

I, Victoria L. Root, Certified Court Reporter, in and for the United States District Court for the Southern District of Georgia, do hereby certify that, pursuant to Section 753, Title 28, United States Code, the foregoing is a true, correct, and complete transcript of the stenographically reported proceedings held in the above-entitled matter and that the transcript page format is in conformance with the regulations of the Judicial Conference of the United States.

WITNESS MY HAND AND SEAL this 16th day of March, 2016.

VICTORIA L. ROOT, CCR B-1691
United States Court Reporter
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